



## MEMORANDUM

October 11, 2012

TO: Historic District Commission

FROM: Jim Wasilak, Chief of Planning *RJW*

SUBJECT: Proposed Amended Rules of Procedure

Based on your introduction of suggested changes to the Rules of Procedure regarding reconsideration, the proposed draft of the entire document is attached. The suggested text is modeled on the recent amendments to the Rules of Procedures for the Planning Commission and Board of Appeals.

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**PROPOSED AMENDMENTS TO**  
**RULES OF PROCEDURE**  
**HISTORIC DISTRICT COMMISSION OF ROCKVILLE, MARYLAND**  
**October 11, 2012**

**PART 1      SUMMARY AND DEFINITIONS**

1.1      These rules are issued to assist the Historic District Commission of Rockville, Maryland, its staff, other city agencies, and Rockville's citizens in the orderly and efficient conduct of all matters with which the Commission is concerned.

1.2      The Historic District Commission of Rockville seeks to foster and safeguard the heritage of the community by preserving the historic districts therein which reflect elements of its cultural, social, economic, political, archaeological or architectural history; to stabilize and improve property values in such districts; to foster civic beauty; to strengthen the local economy; and to promote the use and preservation of historic districts for the education, welfare, and pleasure of the residents of the community, and these rules shall be interpreted in order to achieve such objectives.

1.3      All actions of the Commission shall be governed by Article 66B of the Annotated Code of Maryland, Chapter 25 of the Rockville City Code (Zoning Ordinance), adopted *Architectural Design Guidelines*, adopted *Technical Guides*, the *Historic Resources Management Plan*, and the *Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995* (or as amended) (see below), and these rules.

1.4      The following terms used herein shall have the stated meanings:

- (a) "Appurtenances" and "environmental settings" include outbuildings, walks and driveways, mature trees, and established landscaping materials, landscape walls and structures, and open space [see Article 66B 8.01 (a) of the Annotated Code of Maryland];
- (b) "Briefing materials" shall mean the applicant's submittals, recommendations of Planning staff and other pertinent papers or exhibits relating to each case to be heard at the hearing for which the brief is prepared;
- (c) "Certificate of Approval" [COA] means an official city document issued under the auspices of the Historic District Commission authorizing the construction, alteration, enlargement, conversion, reconstruction, remodeling, rehabilitation, erection, demolition, moving or repair of the exterior of a building or structure or the alteration of the environmental setting of a site within a designated Historic District Zone (multi-site or single-site) in the City;
- (d) "City Clerk" shall mean the Clerk of the City of Rockville;
- (e) "Commission" (see definition of "Historic District Commission");

- (f) "Commissioner" shall mean a member of the Historic District Commission of the City of Rockville;
- (g) "Community Planning and Development Services" shall mean the Department that staffs the Historic District Commission;
- (h) "Courtesy Review" shall mean a non-binding review conducted by the Historic District Commission;
- (i) "Criteria" shall mean the Historic District Criteria adopted by the HDC as the basis for the evaluation of historic significance or appropriateness, and used by the Commission in their determinations;
- (j) "Demolition" shall mean the complete razing of a building or structure;
- (k) "Demolition by Neglect of Historic Properties" shall mean the failure to maintain property, or any component thereof, located within a designated Historic District Zone so as to jeopardize the historic integrity of the property;
- (l) "Due Date" shall mean the date by when complete applications are to be submitted to the staff to be added to an upcoming HDC agenda. This date shall be 5 weeks prior to the next HDC meeting, the schedule of which is noted on the yearly calendar of meetings, as posted on the City's web site;
- (m) "Emergency Meeting" shall mean a public meeting of the Commission that is called to respond to an urgent need that cannot be met through a regular monthly meeting or by an advertised special meeting (as noted in these Rules). Such urgency shall derive from immediate threat to life safety;
- (n) "Environmental settings" shall mean the property included in the Historic District Zone. (See also definition for "Appurtenances");
- (o) "Evaluation of Significance" shall mean the review by the Historic District Commission to determine if the property meets the adopted City of Rockville Historic District Designation Criteria;
- (p) "Guidelines" shall mean *Architectural Design Guidelines for the Exterior Rehabilitation of Buildings in Rockville's Historic Districts*, adopted by the Historic District Commission, September 1977;
- (q) "Historic District" shall mean the overlay zone, also known as the "Historic District Zone";
- (r) "Historic District Commission" (also known as the "Commission") shall mean the five-member commission appointed by the Mayor and Council to help implement heritage preservation strategies in the City of Rockville;

- (s) "Historic District Zone" (see definition of "Historic District");
- (t) "Historic Integrity" shall mean the ability of a property to convey the particular sense of time and place for which it is historically significant;
- (u) "Historic Period of Significance" the range of time when a property was associated with important events, activities, or persons, or attained the characteristics which qualify it as a significant example of a type, period, or method of construction. Period of significance usually begins and ends with the dates when significant activities or events occurred, giving the property its historic significance. For a significant example of a type, period, or method of construction, this is often a date of construction;
- (v) "Interim Historic Review" - That period of time between the initiation of the historic designation process as set forth in Section 25.14.01.d.1 of the Zoning Ordinance and the completion of the designation process as set forth in Section 25.14.01.d.5 of the Zoning Ordinance;
- (w) "Management Plan" shall mean the *Historic Resources Management Plan (1986)* adopted by the Mayor and Council in Feb. 2004;
- (x) "Mayor and Council" shall mean the Mayor and Council of the City of Rockville, Maryland;
- (y) "Ordinary" (see definition for "Routine");
- (z) "Routine" or "Ordinary" maintenance shall mean work on a historic structure or the environmental setting that does not alter in any way the exact features of the property, including the architectural style, design, and general arrangement of the exterior, as well as the nature, texture, details, and dimensions of building materials, windows, doors, siding, etc. Removal of mature trees and shrubs, site grading, and installation of landscape features, such as walls and walks, are not considered "routine" or "ordinary" maintenance, and shall be reviewed by the Commission;
- (aa) "Special Meeting" shall mean a public meeting of the Commission, in addition to the regular monthly meeting;
- (bb) "Staff" shall mean a preservation planner within the City of Rockville's Department of Community Planning and Development Services;
- (cc) "Standards" shall mean *The Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995* (or as amended), published by the National Park Service, and adopted by the Commission in 2004 as additional guidelines herewith;
- (dd) "Substantial Alteration" shall mean the addition to, or subtraction from, a structure such that the original massing, materials, design and ornamentation are removed or obscured; and

- (ee) "Technical Guides" shall mean the individual documents adopted by the Mayor and Council and Historic District Commission in 2004, or as amended, to provide guidance on specific aspects of historic property.

## PART 2 GENERAL PROCEDURES FOR HISTORIC DISTRICT COMMISSION MEETINGS

### 2.1 Historic District Commission Meetings

- (a) All meetings of the Commission shall be public meetings. However, the Commission may, at its discretion, hold closed sessions subject to the State Government Article, Annotated Code of Maryland, Section 10-501 et.seq.

#### (b) Meetings

- (i) Regular meetings of the Commission shall be held on the third Thursday of each month, or as directed by the HDC and advertised on the yearly calendar and the published agenda, as posted on the City's web site. The meetings will commonly begin at 7:00 p.m. at Rockville City Hall, and will adjourn at 10 p.m. and all remaining agenda items will be deferred to the next meeting unless extended by the Chairperson.
- (ii) Special meetings may be called by the Chairperson on four days written notice to each Commissioner and shall be called by the Chairperson upon the written request of two members of the Commission. Special meetings, including organized field visits, may also be arranged at a scheduled public meeting and will be considered advertised, and reflected as such in the minutes of that public meeting.
- (iii) Emergency meetings may be called at the discretion of the Chairperson.

#### (c) Noticing.

- (i) Each regular meeting shall be advertised with written notice, by posting the agenda on the City's web page, and by posting a sign at the site, in accordance with the Zoning Ordinance (25.05.03(d)). Notices for regular meetings shall be mailed to all property owners within 500 feet of the subject property, at least fourteen (14) days prior to the date of the proposed meeting. Any sign erected as required herein must be maintained at all times by the applicant until final action by the Historic District Commission on the application to which it pertains, and thereafter must be removed within seven (7) days from the final action. For regular meetings, a copy of the agenda, staff reports, and relevant attachments shall be mailed to each applicant for each item posted on the agenda approximately seven (7) days prior to the meeting. At the same time, the staff report will be posted on the web site with the agenda.

- (ii) Special meetings shall be advertised by posting the agenda on the City's web page four (4) days in advance of the date of the proposed meeting.
  - (iii) An emergency meeting shall be advertised by posting the agenda at City Hall, and on the City's web page, as soon as possible.
- (d) A quorum shall consist of three members of the Commission.
- (e) The order of business shall be in accord with the agenda prepared by or under the direction of the Chairperson and shall be delivered with briefing materials prepared by the Commission staff at least seven (7) days before each scheduled meeting.
- (i) Correspondence to the Commission will be included in the Commission's briefing material if it is submitted to the Department of Community Planning and Development Services no later than eight days prior to the scheduled meeting.
  - (ii) Commissioners who wish to add to the agenda shall notify the Chairperson prior to the meeting or as a first order of business at each meeting.
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- (f) Questions put to a vote shall be decided by a majority of the members present and voting, assuming a quorum is present. No decision shall be made in the absence of a quorum. Proxy voting shall not be allowed. Commissioners' votes shall be recorded on each motion.
- (g) A tie vote by the Commission shall be interpreted as a defeat of the motion upon which the vote was taken.
- (h) Any person is entitled to appear and be heard by the Commission before it reaches a decision on any matter. This shall include Commissioner-applicants in the case of their own property. The voting on such decisions shall be held during public meetings, and the Commission shall keep an open record of its resolutions, proceedings, and actions which shall be available for public inspection during business hours at the office of the City Clerk and on the City website.
- (i) It shall be the duty of the Commission's staff to keep a true and accurate record of all proceedings at all meetings and public hearings. Minutes shall be typed and distributed to the individual members; and when approved by the Commission, maintained by the Commission staff. All files shall be available at each meeting of the Commission.
- (j) The disposition of all formal petitions and requests before the Commission requiring further action by the Mayor and Council shall be in writing to the Mayor and Council. The petitioner shall be notified by letter of action taken by the Commission.

## 2.2 Historic District Commissioners - Procedures

The Historic District Commission shall consist of five (5) commissioners, appointed by the Mayor and Council for a term of three (3) years. The standing commission shall make a recommendation to the Mayor and Council for new commissioners. The commissioners shall meet the standards for qualification, as set out in Article 66B of the Annotated Code of Maryland, as adopted by the City of Rockville.

- (a) The officers of the Commission shall consist of a Chairperson, approved by vote of the Commission at the beginning of each fiscal year, who shall preside at all meetings. The chair serves a term of one (1) year and is eligible for reelection. In the absence of the Chairperson, a Chairperson Pro Tempore shall be elected to preside at the meeting by a quorum of Commissioners present.
- (b) The Duties of the Chairperson shall be as follows:
  - (i) Preside at all meetings of the Commission;
  - (ii) Decide on all points of order and procedure subject to these rules unless overruled by a majority of Commissioners present;
  - (iii) Participate in discussions and vote on motions: if the Chairperson wishes to formulate motions and otherwise assume the role as a Commissioner, the Chairperson must transfer the gavel to Chair Pro Tempore for the duration of the debate on the subject at hand. The Chairperson may not reassume the Chair position until after the pending case is disposed of;
  - (iv) Have the right to designate Commissioners to write opinions;
  - (v) Direct staff to prepare an Annual Report of the work of the Commission for each fiscal year. This shall be submitted within one calendar month after the end of such period for approval and adoption by the Commission, after which, the report shall be submitted to the Mayor and Council; and
  - (vi) Have the authority to cancel or postpone a meeting for good cause.
- (c) It shall be the duty of each Commissioner to attend all meetings. Should any Commissioner be absent more than three times in any calendar year, the Commission may recommend to the Mayor and Council that such Commissioner's resignation be requested.
- (d) Each Commissioner shall attend one training session or workshop per year, which is certified by the Maryland Historical Trust as meeting the Certified Local Government requirements for yearly training.
- (e) A Commissioner will not appear before any group or body to speak for the Commission except as authorized by the Commission. In any public or private statement concerning

Commission affairs, Commissioners will carefully and clearly indicate whether they are speaking for the Commission or for themselves.

- (f) Commissioners shall not engage in any business transaction in regard to which they have an advantage because of information gained through appointment to the Commission.
  - (g) In the event an application is transmitted for review that, from a Commissioner's evaluation presents a conflict of interest, the complete application shall be returned to staff with the advice that the Commissioner is abstaining from the review because of a conflict of interest or the appearance of a possible conflict of interest.
  - (i) Any Commissioner who has such an interest with respect to any application to be considered by the Commission shall absent himself or herself from the meeting during the discussion, review, and analysis of such application. The foregoing is applicable to any Commissioner who directly or indirectly represents or whose spouse, parents, children, or business associates, directly or indirectly, represent any organization on any matter that would financially or personally benefit such Commissioner or any organization such Commissioner represents.
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- (h) Commissioners shall conduct themselves at Commission meetings in a fair, understanding, and gracious manner. They shall seek to be considerate of all individuals, attitudes, and differences or opinion involved in official Commission business.

### **PART 3    APPLICATION FOR CERTIFICATE OF APPROVAL**

3.1    Applications shall be governed by the provisions of Article 66B of the Annotated Code of Maryland, and the City Code of Rockville. The Commission shall review proposals for alterations at designated historic district sites, including alterations to appurtenances and the environmental setting.

3.2.    Applications for a Certificate of Approval shall be filed with staff by the Due Date.

- (a) Applications shall be evaluated for completeness by staff within five (5) days of the Due Date. Applications determined incomplete shall be returned to the applicant as soon as possible, with a detailed list of all missing information. Applications deemed complete shall be dated and officially accepted by staff, at which time the 45-day review period prescribed by State law begins.
- (b) Applications shall be deemed complete when accompanied by photographs, drawings, and all applicable information requested on the Certificate of Approval application form.

3.3    A sign shall be posted at the subject property, indicating the action requested and date and time of the public hearing, after receipt of the completed application, in accordance with Section 25.05.03(d) of the Zoning Ordinance (see 2.1(c) above).



3.4 The applicant may appear at a Commission meeting on his/her behalf or through a representative. In the absence of any personal appearance on behalf of the applicant, the Commission will proceed to dispose of the matter on the record before it, or may table or defer the item and reschedule it at the Commission's discretion within the 45-day review period.

3.5 The ordinary, but not mandatory, order or procedure for the conduct of a public appearance for the consideration of each application shall be as follows:

- Introduction and summary of case by staff, including a staff recommendation;
- Statement by the applicant or his/her agent;
- Questions of applicant or agent by the Commission;
- Public comment;
- Cross-examination of speakers by the applicant, if requested;
- Applicant's rebuttal; and
- Consideration and vote by the Commission.

3.6 The Chairperson may limit speakers as follows: applicant – five (5) minutes; others – three (3) minutes.

3.7 Within the 45-day review period prescribed by law, the Commission may postpone or continue any case due to a need for additional information from the applicant, lack of a quorum, or for further study. To continue an application review beyond the official 45-day review period, the applicant or owner must provide a time extension waiver.

3.8 Approval or disapproval of any application shall be made upon motion, which motion shall state the reasons for approval, disapproval, or approval with conditions. The Commission shall review the information presented and make its decision to approve, disapprove, or approve with conditions, based on the City's adopted *Design Guidelines*, the *Management Plan*, the *Secretary of the Interior's Standards for the Treatment of Historic Properties, 1995* (or as amended), adopted *Technical Guides*, and design guidelines adopted for the particular district, as applicable. If there are apparent contradictions, the district-specific guidelines shall apply.

3.9 Approval by the Commission of any application and issuance of a Certificate of Approval by the City on behalf of the Commission, shall not obviate the necessity of obtaining building or other permits from appropriate City departments, nor shall it affect any requirement of compliance with all applicable Federal, State, County, or City zoning, building, electrical, plumbing, or other codes or procedures.

#### PART 4 PROCEDURES FOR OTHER REVIEWS

4.1 Upon request by a property owner, the Commission may provide a Courtesy Review of proposed work prior to the formal submission of an application for a Certificate of Approval.

- (a) Notification procedures prescribed for an application for a Certificate of Approval will apply to a Courtesy Review.
- (b) The order of conduct for a Courtesy Review shall follow that of a Certificate of Approval.
- (c) The guidance provided by the Commission shall be advisory, intended to guide the applicant to a Certificate of Approval that follows all applicable guidelines.

4.2 The Commission shall provide a review of proposed work at the request of the Mayor and Council, the Planning Commission, or the Board of Appeals.

- (a) Notification procedures prescribed for an application for a Certificate of Approval will apply to other reviews.
- (b) The order of conduct for other reviews shall follow that of a Certificate of Approval.
- (c) The Commission shall provide a written recommendation to the requesting body, which shall be entered into the Public Record.

#### PART 5 PROCEDURES FOR CONSULTATION WITH STAFF AND STAFF LEVEL APPROVALS

5.1 Staff may meet informally with an applicant, or his/her agent, during the process of developing a complete Certificate of Approval application to provide guidance on the design of a project, ordinary and routine maintenance, demolition and substantial alteration, and other items relating to historic preservation in the City.

5.2 The Chief of Planning is authorized to issue a Certificate of Approval for fences, signs, removal of diseased and/or hazardous trees, and for accessory structure consistent with the adopted Technical Guides. A Certificate of Approval will be issued, and a staff summary presented to the Commission at the next Commission meeting. All other alteration shall be reviewed and approved by the Commission.

#### PART 6 EVALUATIONS AND RECOMMENDATIONS FOR HISTORIC DISTRICT DESIGNATION

6.1 An evaluation of historical, architectural, cultural, social, or archaeological significance for historic designation may be requested by the property owner or another interested party, or be initiated through the filing of a permit for demolition in accordance with Section 25.14.01(d)(1)(c) of the Zoning Ordinance; or filing a Natural Resources Inventory identifying a potentially significant historic resource on the property, in accordance with Section 25.14.01(d)(1)(d) of the Zoning Ordinance.

- 6.2 Notification procedures prescribed for an application for a Certificate of Approval will apply to an Evaluation of Significance.
- 6.3 Historic research will be presented to the Commission using a Maryland Historical Trust Historic Sites Inventory form (MHT form), with photographs, history, and architectural description of the property in the briefing material. The MHT form will be included in the posting of the staff report on the City's website, and also under "Site Histories" on the City's website.
- 6.4 At the meeting, the Commission will hear public testimony and a staff recommendation on the historical, architectural, cultural, social, or archaeological significance of the subject property.
- 6.5 The Commission will render a recommendation of historic district eligibility to the Mayor and Council citing the adopted Criteria.
- 6.6 The order of conduct for an Evaluation of Significance shall follow that of a Certificate of Approval.

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**PART 7 PROCEDURES AFFECTING PROPERTY INCLUDED OR ELIGIBLE TO BE INCLUDED IN THE NATIONAL REGISTER OF HISTORIC PLACES**

- 7.1 Prior to nomination of any property to the National Register, the Commission shall place such nomination on its agenda for discussion and action.
- (a) A copy of the agenda shall be sent to each property owner whose property is proposed for the National Register.
  - (b) Notification procedures for the Certificate of Approval will be followed.
  - (c) State rules and procedures governing the nomination of properties to the National Register of Historic Places will be followed, as posted by the Maryland Historical Trust.
- 7.2 Procedural rules regarding Federally funded, Federally permitted or assisted, or Federally licensed activities that have the potential to impact properties listed, or eligible to be listed, in the National Register of Historic Places are found in 36 CFR, Part 800 entitled "Procedures for Protection of Historic and Cultural Properties" and Executive Order 11593, "Protection and Enhancement of the Cultural Environment." These procedures apply to Federal agencies only, and do not apply to municipal governments unless the Federal agency and State Historic Preservation Office, and municipality specifically agree that the municipality will take on the responsibility. Consultation with the Maryland Historical Trust is recommended.

**PART 8 PROCEEDINGS ON GRANT APPLICATIONS (Reserved)**

## PART 9 RECONSIDERATION

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9.1. Request to Reconsider - A request to reconsider a decision of which the Commission is the Approving Authority must be filed within ten (10) days after the date upon which the original decision was issued in writing by the Commission. Such request must be made in writing and must state fully all grounds for reconsideration including mistake of fact or law, inadvertence, surprise, fraud, or other good cause. The filing of a request to reconsider does not stay the period for appeal allowed pursuant to the Maryland Rules.

The party or agent submitting a request for reconsideration ("Requestor") shall also give written notice to all Parties of Record on the same day it files its request for reconsideration with the City. Within five (5) days of filing the request for reconsideration, a copy of the notice and a certification that the notice was provided to all Parties of Record must be filed with the Chief of Planning. Parties of Record shall have seven (7) days from the date of the notice to submit written comments regarding the request.

At the next possible meeting, the Commission shall either grant or deny the request. Parties of Record need not be present at such meeting. The Commission may, however, question staff or any party then present to clarify points raised in the written request. Otherwise, testimony will not be heard. The Commission may grant a request for reconsideration if it finds mistake of fact or law, inadvertence, surprise, fraud, or other good cause, and must state its reasons for such approval on the record.

If the Commission grants the request, it shall schedule a hearing on the matters to be reconsidered. It shall set the date of such hearing during the meeting at which it granted the request, and staff shall notify the Requestor within five (5) days thereafter of the date of the hearing. The Requestor shall notice all Parties of Record at least fifteen (15) days prior to the date of the hearing.

9.2 Motion to Reconsider - The Commission may also reconsider a decision on its own motion, provided that such motion is made no later than the Commission's next meeting following the date when the original decision was made. In considering a motion to reconsider, no public hearing is required. The Commission may grant a motion for reconsideration if it finds mistake of fact or law, inadvertence, surprise, fraud, or other good cause, and must state its reasons for such approval on the record.

If the Commission approves such a motion, it shall schedule a hearing on the matters to be reconsidered. It shall set the date of such hearing during the meeting at which it granted the motion. Planning staff shall notice all Parties of Record within fifteen (15) days of the date of the hearing.

9.3 Effect of the Commission's Decision on a Request to Reconsider or Motion to Reconsider - If the Commission approves a request to reconsider or a motion to reconsider, such approval shall deem the original decision void. If the Commission denies a request to reconsider or a motion to reconsider, the original decision shall remain in full force and effect.

9.4 Hearing on Matters Reconsidered - If the Commission grants a request to reconsider or approves a motion to reconsider, it shall conduct a hearing on the matters reconsidered. The scope of the hearing must include the reason the Commission cited for reconsideration of the decision and any

other issues that the Commission deems to be relevant. At least ten (10) days before the hearing, planning staff shall post the following: (a) the Commission's decision to reconsider its decision; (b) the date of the hearing on the reconsideration; and (c) a summary of the reasons for the reconsideration.

9.5 Effect of the Commission's Decision After Hearing: If after a hearing, the Commission determines that it will not change its original decision, the original decision shall be reissued and the appeal period shall run from the date of the reissuance. If after a hearing, the Commission determines that it will change the original decision, the original decision shall be revised based on such change, and reissued, with the new appeal period running from the date of reissue.

#### PART 109 APPEALS

910.1 Any person aggrieved by any decision of the Commission may appeal the same to the Circuit Court for Montgomery County. Such appeal shall be taken according to the Maryland Rules as set forth in Title 7, Chapter 200.

#### PART 110 MISCELLANEOUS

101.1 The Commission shall act promptly on all matters referred to it by the Mayor and Council in accordance with Article 66B, Sections 8.01 through 8.15 of the Annotated Code of Maryland, and the Rockville City Code.

101.2 These rules may be amended by a majority of the entire Commission at any meeting of the Commission after the amendment in written form has been introduced at a prior meeting.

10.3 These rules shall become effective upon recommendation by the Commission.

Adopted January 18, 1977

Revised April 15, 1986

Revised August 30, 1994

Revised March 17, 1998.

Adopted April 21, 1998.

Revised and Adopted November 20, 2003

Revised and Adopted December 18, 2003

Revised per the Zoning Ordinance; Introduced June 17, 2010; Adopted July 15, 2010

Revised and Adopted October 18, 2012; Introduced September 20, 2012

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